IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ANGELA WEGENER, Mother, Guardian and next friend of Noah Wegener,	))))	CASE NO. 8:04CV347
Plaintiff,	))	ORDER
v.	)))	
DEAN E. JOHNSON,	))	
Defendant.	)	

This matter is before the Court on the Motion for New Trial pursuant to Rule 59(a)[1] of the Federal Rules of Civil Procedure, filed by the Plaintiff Angela Wegener (Filing No. 111). I have read the briefs and examined the exhibits offered in support of the motion (Filing Nos. 118–19, 125), and the brief and evidence offered by the Defendant Dr. Dean Johnson in opposition to the motion (Filing Nos. 120–22).

To summarize, the Plaintiff seeks a new trial, asserting in her motion that the Court erred by: (i) striking portions of Dr. Richard Derman's deposition; (ii) allowing Dr. James Elston to express opinions that were not contained in his report served pursuant to Rule 26(a)(2)(B); (iii) rejecting the offer of proof made by the Plaintiff with regard to certain testimony of Dr. Bruce Halbridge; and (iv) failing adequately to answer Question Three submitted by the jury. (Filing No. 111, 1). Further, in addition to the reasons set forth in her motion, the Plaintiff asserts in her brief in support that the verdict was against the great weight of the evidence. (Filing No. 118, 3).

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[1]The Plaintiff also invites this Court, pursuant to Rule 59(d), to grant, on its own initiative, a new trial for reasons not stated or for reasons imperfectly stated by the Plaintiff.

I have carefully considered the arguments and the evidence put forward by both parties, and I conclude that the specific assignments of error in the Plaintiff's motion and briefs do not support the grant of a new trial. Further, I find no basis for concluding that the verdict was based on passion, prejudice, or mistake. Finally, I find no error in the other evidentiary rulings, nor in the instructions to the jury, that warrants a new trial.

IT IS ORDERED: The Motion for New Trial (Filing No. 111) is denied.

DATED this 10th day of January, 2007.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge